



Agenda Date: 12/5/03
Agenda Item: 3B

STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.bpu.state.nj.us

OFFICE OF CABLE
TELEVISION

IN THE MATTER OF THE IMPLEMENTATION OF)
P.L. 2003, c.38, PROVIDING FOR THE REPORTING)
OF COMPLAINTS RECEIVED BY CABLE)
COMPANIES TO THE BOARD OF PUBLIC UTILITIES)

AMENDED ORDER

Docket No. CX03080615

SERVICE LIST ATTACHED

BY THE BOARD:

The New Jersey Board of Public Utilities (Board) and its Office of Cable Television (OCTV), pursuant to N.J.S.A. 48:5A-1 et seq., have been granted general supervision and regulation of and jurisdiction and control over all cable television systems which operate within the State of New Jersey, subject only to the limitations of federal law. The within Amended Order is being issued by the Board pursuant to P.L. 2003, c.38, which in part amends and supplements P.L. 1972, c.186, known as the Cable Television Act and codified as N.J.S.A. 48:5A-1 et seq., which directs the Board to order every cable television company in the State to keep, for at least a period of one year, a record of complaints received at its office. The amendments come about from the ongoing discussion with the New Jersey Cable Telecommunications Association as to the best method for providing the necessary information without creating significant regulatory difficulties for the individual cable operators. Based upon these discussions, and as directed by statute, this record must contain the name and address of the subscriber making the complaint, the date, the nature of the complaint, any corrective action taken by the cable television company, and the final disposition of the complaint. Further, these records are to be available for inspection by the staff of the OCTV and copies shall be provided to the OCTV upon request. In addition, P.L. 2003, c.38, §8(b) requires the Board to establish reporting procedures for annual reports, which will be promulgated by the Board through an appropriate administrative rulemaking procedure.

In issuing this Amended Order, the Board is cognizant that, under State and federal law, the privacy of subscriber information collected by a cable television company is of significant importance. 47 U.S.C.A. § 551 provides protection over the collection and disclosure of subscriber information. Under federal law, a cable operator may not disclose personally identifiable information about a subscriber to a third party without the prior written or electronic consent of the subscriber. 47 U.S.C.A. § 551(c)(1). The federal law appears to likewise forbid disclosure to public agencies and other governmental authorities without either consent or a court order. 47 U.S.C.A. § 551(h). Additionally, the State's Cable Subscriber Privacy Protection Act, N.J.S.A. 48:5A-54 et seq., may also be implicated.

The Board HEREBY FINDS that, in light of the privacy requirements imposed upon the users of subscriber information under federal law, the cable television companies in the State must meet the requirements of P.L. 2003, c.38 without violating federal privacy requirements by releasing to any third party personally identifiable customer information without customer approval. Additionally, the Board FURTHER FINDS that the Office of Cable Television should commence a rulemaking to effectuate this legislative mandate in an expedited fashion. Such rules shall be proposed, subject to public comment and input, and published in conformity with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. Finally, the Board FURTHER FINDS that nothing in this Order forbids or forecloses the Office or the Board from directing the cable operator to seek permission from individual customers for release of personally identifiable information on an individual-record basis.

Accordingly, the Board HEREBY ORDERS that the Board Order issued on August 19, 2003 shall be amended to provide that, upon written request by the Board or the Office, every cable television company shall make violation records available for review and that copies of such records shall be provided to the staff of the OCTV upon request, as directed by P.L. 2003, c.38, §8(a), with the exception that any personally identifiable customer information be redacted in order to comply with 47 U.S.C.A. §551. The Board FURTHER ORDERS that, in the event a cable company shall unlawfully refuse to turn over or provide any system or company-wide record or records of complaints in a timely manner, each system or company-wide complaint record which is not provided or turned over in a timely manner shall be considered a separate Board Order violation for use in the determination of a penalty assessment under the appropriate statute or regulation. In addition, the Board FURTHER ORDERS the Office of Cable Television to develop and promulgate rules designed to clarify and codify the process by which complaints are received, collected, recorded and presented to the Office or other governmental authorities, with such rules superceding this Order upon their publication. Finally, the Board FURTHER ORDERS that all other elements of the Board's August 19, 2003 Order concerning the implementation of P.L. 2003, c.38 remain in effect.

This Order shall remain in effect until such time as the Board of Public Utilities, through the Office of Cable Television, promulgates rules regulating the collection, retention and disclosure of customer complaint information.

DATED: December 12, 2003

BOARD OF PUBLIC UTILITIES
BY:

(signed)

JEANNE M. FOX
PRESIDENT

(signed)

FREDERICK F. BUTLER
COMMISSIONER

(signed)

CAROL J. MURPHY
COMMISSIONER

(signed)

CONNIE O. HUGHES
COMMISSIONER

(signed)

JACK ALTER
COMMISSIONER

ATTEST:

(signed)

KRISTI IZZO
SECRETARY

SERVICE LIST

James Holanda
President
Patriot Media
100 Randolph Road
Somerset, NJ 08873

John J. Capparell
General Manager
Service Electric of Hunterdon
2260 Avenue A, LVIP #1
Bethlehem, PA 18017

Robbin Caldarella
Acting General Manager
Service Electric of New Jersey
P.O. Box 853
Sparta, NJ 07871

Brien Kelley
General Manager
Time Warner Bergen & Hudson
200 Roosevelt Place
Palisades Park, NJ 07650

Carol McNamara
General Manager
US Cable Paramus & Hillsdale
590 Industrial Avenue
Paramus, NJ 07652

David Green
Interim Director of Regulatory Affairs
Cablevision
683 Route 10 East
Randolph, NJ 07869

William Kettleson
Vice President Public Affairs
Comcast Cablevision
One Cable TV Lane
Sicklerville, NJ 08081

David Breidinger, Vice President
Government Affairs, Eastern Division
Comcast Cablevision
122 West State Street
Trenton, NJ 08608

Cris Carey
General Manager
Hometown Online, Inc.
47 Main Street
P.O., Box 592
Warwick, NY 10990-0592

Karen Alexander, President
NJCTA
124 West State Street
Trenton, NJ 08608

Celeste M. Fasone, Director
Office of Cable Television
Two Gateway Center
Newark, NJ 07102

William Furlong
Office of Cable Television
Two Gateway Center
Newark, NJ 07102

Kenneth J. Sheehan, Esq.
Deputy Attorneys General
Division of Law
State of New Jersey
124 Halsey Street
Newark, NJ 07102